



Indiana Department of Education

SUPPORTING STUDENT SUCCESS

September 24, 2010

Jeffrey Lozer, General Counsel
Department of Child Services
302 East Washington Street
Indianapolis, IN 46204

Re: Comment on LSA Document #10-416
Propose rule to change rates to residential providers

Dear Mr. Lozer:

On behalf of the Indiana Department of Education, I would like to submit the following comments on the proposed rule referenced above.

As we understand the proposed rule, the cost of educational services provided on-site by the residential provider will no longer be included in the Department of Child Services (DCS) rate paid to the facility. The elimination of this component of the rate will most likely result in a cessation of the facility-provided educational services. When that occurs, providers who aren't already doing so will rely on the local school corporation for the students' educational services. These students are entitled to be served by the school corporation where the facility is located, and we take no issue that that right.

However, there is a fiscal impact on schools that needs to be taken into consideration. Initially, there will be an impact on a school corporation's human and fiscal resources if there is an *en masse* enrollment of students, especially students who are eligible for special education services. The impact results from the number of federal and state special education procedural requirements that are mandated to occur within specific timelines. While school corporations enroll new students daily, including students with disabilities, it is rare that large numbers of students are enrolled at a single time other than the beginning of the school year. Having the staff to ensure that special education services are provided within the requisite timelines is rarely a challenge for the intermittent enrollments during the school year. However, when one hundred or more students with disabilities simultaneously seek to enroll in a school corporation at the same time (as would be the case for Carmel Clay Schools if the Indiana Developmental Training Center terminated its educational services), the procedural and resource demands are so magnified that it may not be possible for the school to ensure compliance with federal and state special education requirements, despite the school's desire and best efforts to do so.

Public school corporations will also experience a fiscal impact by the initial enrollment of residential facility students that will be exacerbated if the students are enrolled after the date on which students are "counted" for state tuition support purposes. The fiscal impact in this case, however, accrues to the student's school corporation of legal settlement. In this case, the school corporation enrolling the student is entitled to bill the student's school corporation of legal settlement for transfer tuition costs. However, it is highly likely that, because the student was placed in the residential facility and not enrolled in the school corporation of legal settlement on "count day," the school corporation of legal settlement will not

have counted the student. If a student wasn't counted, the school corporation received no funding from which to pay the transfer tuition it is now obligated to pay. Depending on the course of the child's residential placements, it's possible that the school corporation of legal settlement could be obligated for transfer tuition payments for multiple years without ever receiving any state tuition support from which to pay the transfer tuition.

We would ask that DCS take these considerations into account in its timing of the rate changes. Although there is a limited number of facilities through the state whose students are not enrolled in the local public school, the impact to a single school corporation such as those in Carmel, Lafayette, and East Porter County will be significant. Similarly, the fiscal impact to the school corporation of legal settlement will be significant because, although it is legal settlement for the student, the school will likely not have served and/or counted the student for some time because of the residential placement.

Should you have any questions or need additional information, please feel free to contact me.

Sincerely,



Rebecca Bowman
General Counsel